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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/684,174	10/06/2000	Mark Morelli	00-623	1693

7590 12/30/2005  
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EXAMINER

NGUYEN, HUY D

ART UNIT PAPER NUMBER

2681

DATE MAILED: 12/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/684,174

Applicant(s)

MORELLI ET AL.

Examiner

Huy D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 10/13/2005 have been fully considered but they are not persuasive.
2. The applicant submitted that Ausems and Pope fail to teach the server as claimed in claims 1, 15, and 16. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the server and gateway as described in the specification) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). "Server" is broadly claimed in the claims and the base unit of Pope reads on it (see Figs. 1 and 5, column 2, lines 45-60).

The applicant also submitted that Ausems and Pope fail to teach that the server communicates with the appliance through a gateway. The examiner responds that "gateway" is broadly claimed in the claims and the IR transmitter of Pope reads on it (e.g. the base unit sends IR signals via IR transmitter to control the appliance - see column 3, lines 35-41).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ausems et al. (US 6,434,403 B1) in view of Pope (US 5,963,624).

Regarding claims 1-2, 6, 13, 15-17, Ausems et al. teaches a PDA telephone (e.g., PDA telephone 100) configured to remotely control appliances, heating, air conditioning system...using either wireless telephone engine 210 or short range transceiver 265 (see column 9, lines 1-9). Ausems et al. does not clearly teach communicating a structural appliance with a server programmed to accept mobile device commands; communicating a mobile device with server; issuing mobile device commands from mobile device to server; converting mobile device commands to structural appliance commands; and issuing structural appliance commands from server to structural appliance. In the same field of endeavor, the preceding limitations are taught in Pope (see Figs. 1 and 5; see column 2, lines 45-60, column 5, lines 14-33, column 3, lines 35-41, column 4, lines 17-33). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the teaching of Pope to the teaching of Ausems et al. to allow control information to be multiplexed with the voice data and to reduce transmission error.

Regarding claims 3-4, the combination of Ausems et al. and Pope teaches the method according to claim 2, further comprising the steps of: storing structural appliance information at one of said structural appliance, said gateway and said server; and transmitting said structural appliance information from said server to said mobile device (see column 4, lines 55-57).

Regarding claim 5, Ausems et al. discloses the method according to claim 3, wherein structural appliance information comprises at least one type of information selected from the group consisting of diagnostic information, maintenance information, operating parameters, environmental information and combinations thereof (see Ausems et al.: Col. 9, line 15).

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Regarding claim 7, Ausems et al. discloses that mobile device is a web-enabled device (see Ausems et al.: Col. 1, line 26).

Regarding claims 8, 11, since PDA telephone 100 is a wireless device, it is inherent that it uses wireless application protocol.

Regarding claims 9-10, the examiner takes official notice that global satellite network and global computer network are well known in the art. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to use global satellite network and global computer network to extend the range of operation.

Regarding claim 12, Ausems et al. discloses display 145 for displaying information to user (see Ausems et al.: Col. 4, lines 21-22).

Regarding claim 14, the combination of Ausems et al. and Pope teaches the method according to claim 13, wherein said server is a wireless-accessible server (see Pope: Fig. 1; column 5, lines 21-22).

Regarding claim 18, Ausems et al. discloses the claimed invention except that the mobile device is operated by an energy provider. It would have been an obvious matter of design choice to have the mobile device being operated by an energy provider or any provider, since it does not solves any problem or is for any particular purpose and it appears that the invention would perform equally well with the mobile device operated by any provider.

Regarding claim 19, it is inherent that to control the appliances using the PDA 100, a selection of appliances is present on the PDA.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

***Contact Information***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy D. Nguyen whose telephone number is 571-272-7845. The examiner can normally be reached on M-F.

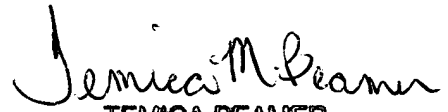
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H. Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Huy Nguyen



TEMICA BEAMER  
PRIMARY EXAMINER  
12/27/05